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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/777,681	02/07/2001	Kazuo Hakamata	Q61216	3338

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EXAMINER

LEE, SHUN K

ART UNIT PAPER NUMBER

2878

DATE MAILED: 06/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/777,681

Applicant(s)

HAKAMATA, KAZUO

Examiner

Shun Lee

Art Unit

2878

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 22 May 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 3-7 and 9-14.Claim(s) withdrawn from consideration: 1, 2 and 8.

8. ☒ The proposed drawing correction filed on 14 August 2002 is a) ☒ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

CONSTANTINE HANNAHER
PRIMARY EXAMINER
GROUP ART UNIT 2878

Continuation of 5. does NOT place the application in condition for allowance because: in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., areas outside the region of interest are not formed as image forming areas) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Applicant should note that independent claims 3 and 4 recite the limitation of "a fluorescence imaging region utilized for the imaging of the fluorescence and a non-imaging region other than the fluorescence imaging region". Further, independent claim 3 recites the limitation that "when signal charges are to be read from the image sensor, signal charges, which have been accumulated in at least certain pixels among pixels falling within the non-imaging region, are prevented from being read" and independent claim 4 recites the limitation that "signal charges, which have been accumulated in pixels falling within a certain area of the non-imaging region, are read with either one of a quick reading operation ... and a binning reading operation". It is important to recognize that within independent claims 3 and 4 there is no limitation that the non-imaging region cannot contain pixels which detect fluorescence or other light from the measuring site. Thus a "non-imaging region" can be used to detect fluorescence from the measuring site since some non-imaging region pixels are prevented from being read while other non-imaging region pixels are not prevented from being read. Therefore it is clear that the scope of independent claims 3 and 4 encompasses embodiments where an imaging means is divided into a "imaging region" and a "non-imaging region" wherein the "imaging region" is utilized for fluorescence imaging and the portions of the "non-imaging region" are utilized for fluorescence imaging and/or other types of imaging. Thus applicant's arguments whether the "non-imaging region" are utilized for fluorescence imaging and/or other types of imaging are not persuasive since the features upon which applicant relies are not recited in the rejected claims.